

REMARKS

This application is a divisional application of USSN 09/ 793,874 now United States Patent No. 6,627,041. This case was previously on appeal; however prior rejections have been withdrawn and a non-final action issued.

In the outstanding Office Action Claims 13 and 64-82 were rejected under 35 USC §112, first paragraph; the specification was deemed enabling for mixing pulps, i.e., treated and untreated pulps from the same source, but not as to incorporating pulp into the absorbent sheet in the manner claimed. Claims 13 and 64-82 were also rejected under 35 USC §112, second paragraph, as being indefinite. Specifically, the phrase "which is otherwise identical" was objected to.

The claims were also rejected over United States Patent No. 6,413,362 to *Hu*, which has an effective date as a reference of November 24, 1999 (this application has an effective filing date of March, 2000). *Hu* '362 is antedated by the enclosed *Declaration*.

As amended, this application is believed in condition for allowance. The existing independent claims have been amended to closely track the original disclosure and original Claim 13 as filed (upon which this divisional application is based) so as to promote harmony between the claim recitation and the application as filed. New Claims 83 and 84 likewise track the case as filed; these claims are similar to Claims 13 and 73 respectively without the curl index 0.12 recitation. Claim 13 in its original form read as follows:

13. An absorbent sheet incorporating fiber prepared in accordance with the process of Claim 1.

Original Claim 1 recited the concurrent bleaching, curling and heat treating process of this application and issued United States Patent No. 6,627,041. The Claim language as it now appears is further supported by the written description, Examples 36-40 on page 38-39 of the application, reproduced below:

A pilot paper machine trial was performed utilizing curled and bleached fiber from the batch refiner. *A sample of the paper which was used in Examples 9-25 was used as the control and curled pulp.* The paper was wetted to 35% consistency and run through the lab pilot pulp breaker before use in the refiner. Utilizing a bleaching/-curling process five batches of pulp were produced. The five batches of pulp were combined in the machine chest, diluted to about 2% consistency and continuously agitated for the trial duration. The curl at the machine chest and headbox was monitored for each cell. In Table 9 the base sheet results are given.

Table 9. Base Sheet Results

		Example				
		36	37	38	39	40
% Refiner Bleached Fiber		0	20	40	60	100
Basis Weight	lb/3000ft ²	8.9	8.5	8.5	8.3	7.2
Caliper	In	33.7	34.0	34.6	36.5	34.9
Bulk	ft ³ /lb	0.118	0.125	0.127	0.137	0.151
MD Tensile						
Max Load	g	679.737	529.313	462.691	470.589	308.430
% Disp	%	25.667	24.426	23.296	25.759	24.667
CD Tensile						
Max Load	g	424.431	340.157	308.716	274.995	230.614
% Disp	%	4.500	5.296	4.981	6.037	6.370
Headbox Mean Curl		0.081	0.104	0.101	0.115	0.120
Porofil		8.3	8.6	8.4	9.4	10.3

It is seen from the disclosure that curled and uncurled pulp from the same source was mixed in the headbox (penultimate row of Table 9) at the proportions of the second row of Table 9 to produce the base sheet. This is believed especially clear from the reported mean curl in the headbox which correlate to the proportions.

The claims as they now appear are believed most clearly in compliance with section 112. As noted in *In re Smith*, 178 USPQ 620, 624 :

Compliance with the first paragraph of § 112 is adjudged from the perspective of the person skilled in the relevant art. This court has held that claimed subject matter need not be described in haec verba in the specification in order for that specification to satisfy the description

requirement, *In re Smith*, supra; *In re Lukach*, 58 CCPA 1233, 442 F.2d 967, 169 USPQ 795 (1971), although where there is exact correspondence between the claim language and original specification disclosure, the description requirement would normally be satisfied. See *Snitzer v. Etzel*, supra; *In re Robins*, 57 CCPA 1321, 429 F.2d 452, 166 USPQ 552 (1970). The specification as originally filed must convey clearly to those skilled in the art the information that the applicant has invented the specific subject matter later claimed. In *re Ruschig*, supra, 54 CCPA at 1559, 379 F.2d at 996, 154 USPQ at 123. When the original specification accomplishes that, regardless of how it accomplishes it, the essential goal of the description requirement is realized. See, e.g., *In re Smythe*, 178 USPQ 279, Appeal No. 8855, decided June 28, 1973.

Likewise, in *In re Gardner*, 177 USPQ 396, 397 (CCPA 1973) Judge Markey noted numerous examples unnecessary:

But we see no need for either additional representative examples or more definite language to satisfy the description requirement. Claim 2, which apparently was an original claim, in itself constituted a description in the original disclosure equivalent in scope and identical in language to the total subject matter now being claimed. See *In re Anderson*, 471 F.2d 1237 (CCPA 1973). Nothing more is necessary for compliance with the description requirement of the first paragraph of 35 U.S.C. § 112.

Further, the Court of Appeals for the Federal Circuit has rejected the notion that lengthy discourse is necessary to support claim language. In *In re Hayes*, 25 USPQ2d 1241, 1246 (CAFC 1992), the Court rejected the notion that lengthy description is necessary:

Ven-Tel also focuses on the fact that the heart of the claimed invention of the '302 patent is described only in twenty-seven lines. Certainly no length requirement exists for a disclosure to adequately describe an invention. While some inventions require more disclosure, the adequacy of the description of an invention depends on its content in relation to the particular invention, not its length.

Regarding the 112 ¶ 2 rejection, the phrase "from the same source" has replaced "otherwise identical" and is believed to attend to the objection.

With respect to the rejections made over *Hu* '362, it has been determined that *Hu* '362 is not prior art to the present invention because the invention was reduced to practice prior to the filing date of the reference. In this respect, enclosed herewith is a *Declaration Under 37 CFR §1.131 of Jeffrey A. Lee* confirming the date of reduction of practice of the present invention was prior to the effective date of *Hu* '362.

In view of the above amendments, remarks, and enclosed §1.131 *Declaration* this case is believed in condition for allowance. Such action is earnestly solicited. If for any reason the Examiner believes a telephone conference will in any way expedite prosecution of this case the Examiner is invited to call at the number listed below.

This Amendment is being filed with a *Petition* and fee for a one-month extension of time. If additional extensions or fees are necessary, please consider this a *Petition* therefor and charge any fees to Deposit Account No. 50-0935. Also, if additional fees for new Claims 83 and 84 are required, please charge our Deposit Account No. 50-0935.

Respectfully submitted,



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